

Assembly Bill No. 1309

Passed the Assembly August 22, 2002

Chief Clerk of the Assembly

Passed the Senate August 20, 2002

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to amend Section 12946 of the Government Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1309, Goldberg. Employment: reports on gender and ethnicity.

Existing law vests responsibility for administration of the employment discrimination provisions of the California Fair Employment and Housing Act with the Department of Fair Employment and Housing and the Commission of Fair Employment and Housing. Existing law additionally requires certain specified employers, labor organizations, and employment agencies to maintain specified employment records for specified periods of time and authorizes the department to seek judicial relief to enforce these retainer provisions.

This bill would require certain specified employers, labor organizations, and apprenticeship programs to annually file prescribed reports breaking down the composition of their workforce by gender and ethnicity and job classification. The bill would permit compliance by filing copies of reports submitted to federal agencies that disclose the required information and would declare that its provisions are declaratory of existing law.

The people of the State of California do enact as follows:

SECTION 1. Section 12946 of the Government Code is amended to read:

12946. (a) It is an unlawful practice for employers, labor organizations, and employment agencies subject to the provisions of this part to fail to maintain and preserve any and all applications, personnel, membership, or employment referral records and files for a minimum period of two years after the records and files are initially created or received, or for employers to fail to retain personnel files of applicants or terminated employees for a minimum period of two years after the date of the employment action taken. For the purposes of this section, the State Personnel Board is exempt from the two-year retention requirement and shall



instead, maintain the records and files for a period of one year. Upon notice that a verified complaint against it has been filed under this part, any such employer, labor organization, or employment agency shall maintain and preserve any and all records and files until the complaint is fully and finally disposed of and all appeals or related proceedings terminated. The commission shall adopt suitable rules, regulations, and standards to carry out the purposes of this section. Where necessary, the department, pursuant to its powers under Section 12974, may seek temporary or preliminary judicial relief to enforce this section.

(b) (1) It is an unlawful practice for employers regularly employing 100 or more employees, labor organizations with 100 or more members, and apprenticeship programs with (A) five or more apprentices, (B) at least one sponsoring employer with 25 or more employees, and (C) at least one sponsoring labor organization that operates a hiring hall or has 25 or more members, to fail to annually file with the department a report showing, by gender, ethnicity, and job classification, the composition of its employees, membership, and participating apprentices.

(2) An employer or labor organization may comply with the reporting requirement set forth in paragraph (1) by filing with the department a copy of any report the employer or labor organization submitted to a federal agency that contains the required information, including, but not limited to, the EEO-1 form.

(3) It is the intent of the Legislature that the reporting requirements set forth in this subdivision are declaratory of existing law.



Approved _____, 2002

Governor

